

64,600-093; ERSO 900056  
Serial Number 10/038,994

#### REMARKS

Favorable reconsideration of this application in light of the above amendments and the following remarks is respectfully requested.

Claims 1-18 are pending in this application. Claims 1-8 have been elected for prosecution. Claims 9-18 are withdrawn. Claims 1 and 5 are amended herein. No claims have been allowed.

#### *Claim Rejections - 35 U.S.C. § 102*

The Examiner has rejected claims 1-8 under 35 U.S.C. § 102(e) as being anticipated by Vanden Bussche et al. (U.S. Patent No. 6,655,829; hereinafter “Vanden Bussche”).

At page 2 of the office action made FINAL, the Examiner reads Vanden Bussche onto applicant’s claims 1-8, implicitly concluding anticipation thereof by Vanden Bussche.

In response, applicant has amended claim 1 and amended claim 5 to incorporate therein limitations that applicant believes to provide a patentable distinction between applicant’s invention as claimed therein and Vanden Bussche. In that regard, applicant has amended claim 1 and amended claim 5 to incorporate therein the limitation that each of applicant’s at least two channels that terminates with respect to applicant’s aperture within applicant’s microfluidic mixer apparatus terminates only obliquely with respect to applicant’s aperture within applicant’s microfluidic mixer apparatus. Support for this limitation newly incorporated into claim 1 and claim 5 is found within applicant’s specification at paragraph 0033 as newly amended, which in turn finds support within applicant’s Fig. 1 as originally filed.

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In comparison, Vanden Bussche at Figs. 1-3 teaches related microfluidic mixer apparatus where a plurality of channels terminates at an aperture 14 for mixing fluids therein. The plurality of channels terminates both obliquely (i.e., reference numerals 10) and perpendicularly (i.e. reference numerals 12) with respect to the aperture, but not only obliquely with respect to the aperture 14, as is required within applicant's invention as disclosed and claimed within claim 1 and claim 5.

Thus, since each and every element within applicant's invention as disclosed and claimed within claim 1 and claim 5 is not taught within Vanden Bussche, in particular with respect to a microfluidic mixer apparatus having at least two channels terminating at an aperture, where each of the at least two channels terminates only obliquely with respect to the aperture, applicant asserts that claim 1 and claim 5 may not properly be rejected under 35 U.S.C. § 102(c) as being anticipated by Vanden Bussche.

Since all remaining claims within this application are dependent upon claim 1 or claim 5 and carry all of the limitations of claim 1 or claim 5, applicant additionally asserts that those remaining claims may also not properly be rejected under 35 U.S.C. § 102(e) as being anticipated by Vanden Bussche.

In light of the foregoing response, applicant respectfully requests that the Examiner's rejections of claims 1-8 under 35 U.S.C. § 102(e) as being anticipated by Vanden Bussche be withdrawn.

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*Other Considerations*

No additional prior art of record not employed in rejecting applicant's claims to applicant's invention has been cited. No fee is due as a result of this amendment and response.

**SUMMARY**

Applicant's invention as disclosed and claimed within claim 1 and claim 5 is directed towards a microfluidic mixer apparatus and a method for operating the microfluidic mixer apparatus. The microfluidic mixer apparatus comprises at least two channels which terminate at an aperture, where each of the at least two channels terminates only obliquely with respect to the aperture, such as to effect within the aperture a swirling mixing of at least two reagents introduced into the aperture through the at least two channels. Absent from the prior art of record employed in rejecting applicant's claims to applicant's invention is a teaching of each and every element within applicant's claimed invention.

**CONCLUSION**

On the basis of the above amendments and remarks, reconsideration of this application, and its early allowance, are respectfully requested.

Any inquiries relating to this or earlier communications pertaining to this application may be directed to the undersigned attorney at 248-540-4040.

Respectfully submitted,

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